IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 15524 of 2003

Between:

A. Showkathvali, S/o. A. Kasim Saheb,

Door No.3-88-F, Ramulavari Street,

N.G. Pally, Madanapalli, Chittoor District.

..... PETITIONER

AND

1. The Regional Manager, A.P.S.R.T.C.,

Tirupathi Region, Tirupathi,

Chittoor District.

2. The Depot Manager, A.P.S.R.T.C.,

Kothakota Depot, Kothakota,

Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing proceedings dated

3-1-2003 is wholly illegal, arbitrary and unjust, and consequently direct the respondents to appoint the petitioner in the post of Cleaner/Attender/Shramic or any other suitable post on compassionate grounds.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.: MR.P.VINAYAKA SWAMY

The Court made the following:

ORAL ORDER:

This writ petition is filed by the petitioner seeking to issue a writ of Mandamus declaring the action of the 1st respondent in issuing proceedings dated 3-1-2003, as illegal, arbitrary and unjust and consequently direct the respondents to appoint the petitioner in the post of Cleaner/Attender/Shramik or any other suitable post on compassionate grounds.

It is the case of the petitioner that his father Late A. Khasim Saheb was appointed in the respondent-Corporation and he died on 28-4-1998 during the course of his employment. Subsequently, the petitioner filed an application in the respondent-Corporation for appointment on compassionate grounds as cleaner/attender/shramik or any other suitable post under the Bread Winner Scheme introduced by the respondent-Corporation. Pursuant to the said application, the petitioner was called for interview to the post of conductor on 12-9-2000. The Regional Manager, Tirupathi Region, vide Proc.No.E6/684(15)/2000-RM(T) dated 19-9-2000, informed the petitioner that he was not eligible to the post of conductor under Bread Winner Scheme as he was not possessing the requisite qualifications, but was eligible to the post of shramik and accordingly he was advised to submit a separate application to the post of shramik. Accordingly, he filed another application on 24-12-2002, but

the same was rejected by the first respondent vide its notification No.E6/684(5)2002-RM(T), dated 3-1-2003 stating that as per Notification No.17/2002 dated 16-9-2002, his application cannot be considered, as the scheme providing employment on compassionate ground was suspended for want of vacancies. It is stated that, however, the scheme of the compassionate appointment has been renewed with a settlement between the recognized unions and the Corporation to appoint 134 persons who were already selected under the Bread Winner Scheme against the future vacancies.

The learned Counsel appearing for the respondents submit that the case of the petitioner cannot be considered as he was not selected even for the post of the Shramik. Moreover, there was delay in filing the application by the petitioner to consider his case to the post of shramik and, therefore, the petitioner was not entitled for any relief.

As long as the scheme for appointment on compassionate grounds under Bread Winner Scheme is existing and continued, the respondents cannot reject the application of the petitioner for appointment on the ground that the scheme was kept under abeyance vide their Notification No.17/2002 dated 16-9-2002.

In the counter affidavit it is admitted that the corporation has agreed to appoint 134 candidates under Bread Winner Scheme in the future vacancies. If that be so, the petitioner cannot be discriminated, while considering the cases of similarly situated persons. The father of the petitioner died on 28-4-1998, and if any of the cases of the dependents of deceased employees, who died during the course of employment, are considered after 28-4-1998, the same benefit cannot be denied to the petitioner.

Having regard to the facts and circumstances of the case, the respondents are directed to consider the case of the petitioner for appointing him to the post of shramik under Bread Winner Scheme, keeping in view the date of death of petitioner's father i.e., 28-4-1998 and pass appropriate orders within eight weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

18-08-2004

es/tsr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Regional Manager, A.P.S.R.T.C., Tirupathi Region, Tirupathi,

Chittoor District.

2. The Depot Manager, A.P.S.R.T.C., Kothakota Depot, Kothakota,

Chittoor District.

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